

## **REMARKS**

### **Summary of Office Action**

Claims 2-6, 15, 16, 19-23, 32 and 41-47 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Murayama et al. (US, 5,128,708) in view of Honda et al. (US 5,296,884) and Bush et al. (US, 6,064,433).

Claims 12, 14, 29, 31 and 37 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Murayama et al. in view of Nozaki et al. (US 6,421,470).

Claims 13, 18 and 30 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Murayama et al. in view of Nozaki et al. and Honda et al.

Claims 33, 34, 38 and 48-55 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Murayama et al. in view of Nozaki et al., Honda et al. and Bush et al.

Applicant appreciates the Examiner's indication that claims 7-11, 24-28, 35, 36, 39 and 40 are allowed.

### **Summary of Response to the Office Action**

Claims 2, 12, 19, 29, 42, 43, 48, 52 are amended to further define the invention. New claims 56-59 are added. Accordingly, claims 2-16 and 18-59 are currently pending for consideration.

### **All Subject Matter Complies with 35 U.S.C. § 103(a)**

Claims 2-6, 15, 16, 19-23, 32 and 41-47 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Murayama et al. in view of Honda et al. and Bush et al., claims 12, 14, 29, 31 and 37 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Murayama et al. in view of Nozaki et al., claims 13, 18 and 30 stand rejected

under 35 U.S.C. §103(a) as allegedly being unpatentable over Murayama et al. in view of Nozaki et al. and Honda et al., and claims 33, 34, 38 and 48-55 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Murayama et al. in view of Nozaki et al., Honda et al. and Bush et al. Applicant respectfully traverse these rejections for at least the following reasons.

(i) Independent claims 2, 19, 42, and 43:

With respect to independent claim 2, as amended, Applicant respectfully asserts that Murayama et al., Honda et al., and Bush et al., whether taken singly or combined, do not teach or suggest an image processing method including at least the assuming step that specifies automatically the first subject in the photographing scene and the image processing that subjects the digital image data in a first region limited to the first subject automatically specified by the assuming step. Page 5 of the Office Action alleges that Bush et al. discloses “said first image processing is subjected to said digital image data in a first region limited to said specified first subject (Bush et al., col. 2, lines 12-20, the first image processing is subjected for processing the selected area so as to adjust the brightness and/or color of the selected area).” As a result, the Office Action alleges that “it would have been obvious to one of ordinary skill in the art at the time to modify the image processing system of Murayama et al. to providing first image processing subjected to said digital image data in a first region limited to said specified first subject as taught by Bush et al.” Applicant respectfully disagrees.

In accordance with the presently claimed invention, the determination of the first subject is performed automatically in the image processing method. Specifically, the first subject is automatically specified from the camera information, the supplementary information and the digital image data by assuming the photographing scene. In other words, the subject extracting

step, the subject extracting means, the assuming step, or the assuming means automatically extracts/specifies the first subject. In contrast to the Applicant's claimed invention, Bush et al. at col. 2, lines 12-20 teaches that the video apparatus includes "a selection means enables for enabling an operator to designate a selected area of the video image and enter information regarding the brightness and/or color of the selected area." However, as clearly indicated, the selection means of Bush et al. is a manual operation where the designation of the selected area is manually performed by the operator.

Accordingly, Applicant respectfully submits that Bush et al. does not teach or suggest the assuming step that specifies automatically the first subject in the photographing scene and the image processing that subjects the digital image data in a first region limited to the first subject automatically specified by the assuming step, as recited by the amended independent claim 2. In addition, Applicant respectfully submits that Bush et al. fails to cure the deficiencies of Murayama et al. and Honda et al.

Moreover, Applicant respectfully submits that the inventions of claims 19, 42, and 43 are distinguished over Murayama et al., Honda et al., and Bush et al., for reasons similar to those presented above with respect to independent claim 2, as amended. Accordingly, Applicants respectfully assert that Murayama et al., Honda et al., and Bush et al., whether taken singly or in combination, fails to teach every element of amended independent claims 2, 19, 42, and 43, hence dependent claims 3-6, 15, 16, 20-23, 32, 41, and 44-47.

(ii) Independent claims 12 and 29:

With respect to independent claim 12, as amended, Applicant respectfully asserts that Murayama et al. and Nozaki et al., whether taken singly or combined, does not teach or suggest an image processing method including at least “said message information is audio information and said image processing conditions is used to image processing for obtaining a high quality image and set in accordance with said photographing scene assumed from at least said contents of said audio information in said assuming step.” Pages 10 and 11 of the Office Action alleges that Nozaki et al. teaches “an image processing system contents a audio message information (voice code), and image processing set in accordance with the audio information (Nozaki et al., col. 8, lines 8-14 and FIGs. 1, 2, and 12).” As a result, the Office Action alleges that “it would have been obvious to one of ordinary skill in the art at the time to modify the image processing system of Murayama et al. to providing audio information link with the photographing scene as taught by Nozaki et al.” Applicant respectfully disagrees.

In contrast to the Applicant’s claimed invention, Nozaki et al. teaches a photo processing apparatus that includes the image input unit 10 that records the image information and the audio input unit 60 (independent from the unit 10) that records the audio information, where two different forms of information, image data and audio data, are input to the image processing apparatus to link these two information to form a composite image (i.e., an audio-coded photographs) using the visual/audio code image layout editor 234 (Nozaki et al., col. 10, lines 25-44, col. 11, lines 39-44, col. 12, lines 5-41, col. 14, line 62 to col. 15, line 4, and FIG. 12 ). Applicant respectfully submits that the audio information disclosed by Nozaki et al. is simply the additional information recorded on the recording medium accompanying the selected image data

to form the audio-coded photographs. “For example, unimportant regions of the photographed images are masked and processed to become a white background after development without being printed. Audio code images (i.e., audio information) may be printed in such regions” (Nozaki et al., col. 8, lines 9-12). In addition, an actual layout editing process is a manual process performed by the user in the image processing apparatus (Nozaki et al., col. 11, lines 45-49, FIG. 10).

On the other hand, in the present invention, the single device captures simultaneously both the audio information and the digital image data. In addition, Nozaki et al. is completely silent about using the audio information to assume the photographing scene. In another words, the audio information of Nozaki et al. has nothing to do with the actual image processing of the digital image data captured by the digital camera, for example. Furthermore, the present invention is directed to the image processing to improve the image pixel, such as correction of distortion aberration and lateral chromatic aberration based on the aberration characteristics of the photographing lens, reduction of marginal light quantity, defocus of the image, color balance adjustment, contrast correction, brightness correction, sharpness correction, dodging processing, and the like. However, the audio information of Nozaki et al. does not provide any image processing assistance.

Accordingly, Applicant respectfully submits that Nozaki et al. do not teach or suggest the image processing method including “said message information is audio information and said image processing conditions is used to image processing for obtaining a high quality image and set in accordance with said photographing scene assumed from at least said contents of said audio information in said assuming step,” as recited by the amended independent claim 12. In

addition, Applicant respectfully submits that any combination of Nozaki et al. and Honda et al. fails to cure the deficiency of Murayama et al.

Moreover, Applicant respectfully submits that the invention of claim 29 is distinguished over Murayama et al. and Nozaki et al. for reasons similar to those presented above with respect to amended independent claim 12. Accordingly, Applicant respectfully asserts that Murayama et al. and Nozaki et al., whether taken singly or in combination, fails to teach every element of amended independent claims 12 and 29, hence dependent claims 13, 14, 18, 30, 31, 33, 34, 37, and 38.

(iii) Independent claims 48 and 52:

With respect to independent claim 48, as amended, Applicant respectfully asserts that Murayama et al., Nozaki et al., Honda et al. and Bush et al., whether taken singly or combined fails to teach or suggest an image processing method including at least “a step of capturing a message information relating to said photographing scene, acquired or input in said camera at a same time when the digital image data is captured and assigned to said digital image data, such that the message information is being stored until it is used.” Page 8 of the Office Action alleges that “Murayama et al., Honda et al., and Bush et al. references disclose all subject matter of claim 45 as discussed with respect to same comments as with claim 2, and Bush et al. reference discloses that “said first subject is a principal subject (window area illuminated by daylight, FIGs. 1 and 2).” In addition, page 14 of the Office Action alleges that Murayama et al., Nozaki et al., Honda et al., and Bush et al. references disclose all subject matter as discussed with respect to same comments as with claims 2, 12, and 45. Applicant respectfully disagrees.

In contrast to the Applicant's claimed invention, the audio information and the image information disclosed by Nozaki et al. are recorded separately before inputting the two different types of information to the image processing apparatus (Nozaki et al., col. 7, lines 25-31). However, the present invention is defined to perform "a step of capturing a message information relating to said photographing scene, acquired or input in said camera at a same time when the digital image data is captured and assigned to said digital image data, such that the message information is being stored until it is used." Accordingly, Applicant respectfully submits that Nozaki et al. does not teach or suggest the image processing method including at least these features of amended independent claim 48. In addition, Applicant respectfully submits that any combination of Nozaki et al., Honda et al., and Bush et al. fails to cure the deficiency of Murayama et al.

Moreover, Applicant respectfully submits that the invention of claim 52 is distinguished over Murayama et al., Nozaki et al., Honda et al., and Bush et al., for reasons similar to those presented above with respect to amended independent claim 48. Accordingly, Applicant respectfully asserts that Murayama et al., Nozaki et al., Honda et al., and Bush et al., whether taken singly or in combination, fails to teach every element of amended independent claims 48 and 52, hence dependent claims 49-51 and 53-55.

\* \* \* \* \*

In light of the arguments presented above, Applicant respectfully requests that the rejection of claims under 35 U.S.C. §103(a) be withdrawn.

**New Claims 56-59**

Applicant adds new claims 56-59 to further define the subject matter of the current invention. Thus, Applicant respectfully requests consideration of newly added claims 56-59.


**CONCLUSION**

In view of the foregoing remarks, Applicant respectfully requests reconsideration of this application, withdrawal of all rejections, and the timely allowance of all pending claims. Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact Applicant's undersigned representative to expedite prosecution.

If there are any other fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-0310. If a fee is required for an extension of time under 37 C.R.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

**MORGAN, LEWIS & BOCKIUS LLP**

By:   
Mary Jane Boswell  
Reg. No. 33,652

Date: June 8, 2006

**Customer No. 009629**  
**MORGAN, LEWIS & BOCKIUS LLP**  
1111 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004  
Tel: (202) 739-3000  
Fax: (202) 739-3001